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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

**JOHN KANE and MARY BOWERS,
individually and on behalf of all
similarly situated individuals,**

Plaintiffs,

v.

CONSUMER CELLULAR, INC.,

Defendant.

Case No. 3:20-cv-01558-IM

**JOINT MOTION TO AMEND
AND STAY DISCOVERY AND
PRETRIAL SCHEDULING
ORDER**

CERTIFICATE PURSUANT TO LR 7-1(a)

Prior to filing this Joint Motion, the Parties conferred and counsel for Defendant supports this Joint Motion.

JOINT MOTION

On February 5, 2021, the Parties appeared for a telephonic status conference to inform the Court of certain developments of this Action.

Plaintiffs' Complaint was filed on September 9, 2020 in the United States District Court of Oregon, and Defendant was sent a waiver of the service of summons on November 19, 2020, which was signed. On January 15, 2021, Defendant filed an Amended Motion for Extension for Time to Answer (Dkt 14) which the Court granted on January 19, 2021 (Dkt 15). Following the February 5, 2021, telephonic status conference, Defendant filed its Second Unopposed Motion for Extension of Time to File Responsive Pleading to the Complaint (Dkt 18) which the Court granted on February 9, 2021 (Dkt 19). Defendant's response to Plaintiff's Complaint is currently due on Tuesday, March 2, 2021.

Since the filing of the Complaint, the Parties conducted several meet-and-confers regarding Defendant's anticipated motion to dismiss or stay certain Named- and Opt-in Plaintiffs to arbitration. To streamline this Action, while saving judicial resources, the Parties seek to stay this Action in an effort to resolve all alleged claims of the Named- or Opt-in Plaintiffs who executed an arbitration agreement. Any Named- or Opt-in Plaintiff not subject to an arbitration agreement will voluntarily dismiss their Consent to Sue and refile their claim in a separate action within 30 days of withdrawal. The applicable class action and FLSA statutes of limitation for any new action filed by such a Plaintiff not subject to an arbitration agreement will relate back to the date the Complaint and their original Consent to Sue was filed in this Action. The statute of limitations for any putative FLSA opt-in plaintiff not currently involved in this matter will relate to the filing of their Consent to Sue in the new matter.

After conferral between the Parties, and consistent with the Action being stayed, the Parties request that the Court schedule a status conference for July 5, 2021, but that there be no Discovery and Pretrial Scheduling Order until the case is no longer stayed to allow the Parties to explore resolution of this Action.

This joint motion is not made for the purposes of delay.

DATED: February 22, 2021.

s/ Jacob. R. Rusch
Jacob R. Rusch (*pro hac vice*)
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Local Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2021, I served the foregoing **JOINT MOTION TO AMEND AND STAY DISCOVERY AND PRETRIAL SCHEDULING ORDER** on:

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Attorneys for Defendant Consumer Cellular, Inc.

- ☒ by **electronic** means through the Court's Case Management/Electronic Case File system, which will send automatic notification of filing to each person listed above.
- ☐ by **mailing** a true and correct copy to the last known address of each person listed. It was contained in a sealed envelope, with postage paid, addressed as stated above, and deposited with the U.S. Postal Service in Portland, Oregon.
- ☐ by causing a true and correct copy to be **hand-delivered** to the last known address of each person listed. It was contained in a sealed envelope and addressed as stated above.
- ☒ by **emailing** a true and correct copy to the last known email address of each person listed, with confirmation of delivery.

s/ Jacob. R. Rusch
Jacob R. Rusch (*pro hac vice*)
Attorney for Plaintiffs